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10/734,159	12/15/2003	Ilan Twig	TWIG1A	2105

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EXAMINER
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CHEN, TE Y

ART UNIT	PAPER NUMBER
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2161

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/30/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/734,159

Applicant(s)

TWIG ET AL.

Examiner

Susan Y. Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-23 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-23 and 25-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/08/2007 &amp; 12/15/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

### ***Response to Amendment***

This office action is in response to the amendment filed on Jan. 04, 2007.

Claims 3-23 and 25-31, are pending for examination, claims 1-2 and 24 have been canceled; claims 3-23 have been amended; claims 25-31 have been newly added.

### **Specification**

Applicant amended specification on Jan. 04, 2007 by incorporating the reference of U.S. Application No. 09/855,751 (i.e., U.S. Patent No. 6,665,676) for instant invention is acknowledged and placed on record.

### **Double Patenting**

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 3 is rejected under the judicially created doctrine of nonstatutory obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent No. 6,665,676. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Because claim 17 of U.S. Patent No. '676 contains every element of claim 3 of the instant application via same intended details and thus anticipates the claim of instant application. Claim 3 of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable over obvious-type double patenting. A later patent/application claim is not patentably distinct from an earlier claim if the later claim is anticipated by the earlier claim.

### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19-23 and 28-29, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 19 and 31, the use of the phrase "may be" renders the claimed limitations as vague and indefinite, because it is uncertain if the claimed limitations are really existed or not.

As to claims 20-23 and 28-29, these claims have the same defects as their base claims, hence, are rejected for the same reason.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3-7, 9-11, 13-23, 25-26, 28 and 30-31, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,735,585 issued to Black et al. (hereinafter referred as Black).

#### **Claim 3:**

Black discloses a system for presenting results of a search query pertaining to commercial enterprises, the system comprising a server executing a software application [e.g., Abstract] being designed for:

(a) receiving from a user client networked to said server a search request [e.g., the receiving of users Web page search requests as shown by Fig.(s) 2-4 ]; and

(b) providing said user client with data pertaining to a plurality of commercial enterprises matching said search request such that said user of said user client is presented with an image including said plurality of commercial enterprises superimposed over geographical map data [e.g., Fig. (s) 2-9 and associated texts], wherein a level of visibility of each commercial enterprise of said plurality of commercial enterprises in said image is determined according to at least one selection criteria provided by a user of said user client or by said server [e.g., col. 3, lines 1 – col. 4, lines 54].

Claim 4:

Black further discloses that said map data is provided by said server along with said data pertaining to a plurality of commercial enterprises [e.g., Fig(s). 6A-B and associated texts].

Claim 5:

In addition to the limitations recited in claim 3, Black further discloses that said map data is stored by said user client and said data pertaining to a plurality of commercial enterprises includes information for superimposing each of said plurality of commercial enterprises over said map data [e.g., col. 1, lines 17-34, col. 8, line 59 – col. 9, line 2].

Claim 6:

In addition to the limitations recited in claim 3, Black further discloses that said plurality of commercial enterprises include businesses [e.g., col. 2, lines 28-44, col. 7, lines 39-48].

Claim 7:

In addition to the limitations recited in claim 3, Black further discloses that said at least one selection criteria forms a part of a user-specific profile [e.g., col. 7, lines 49-56].

Claim 9:

In addition to the limitations recited in claim 3, Black further discloses that said image further displays commercial enterprise-related information for each of said plurality of commercial enterprises matching said search request [e.g., col. 7, lines 1-15].

Claim 10:

In addition to the limitations recited in claim 9, Black further discloses that said commercial enterprises-related information is provided to said user by said server as various layer of information [e.g., col. 7, lines 25-38].

Claim 11:

In addition to the limitations recited in claim 3, Black further discloses that said server is further capable of providing said user with information relating to a group of commercial enterprises [e.g., Fig. 6A and associated texts].

Claim 13:

In addition to the limitations recited in claim 3, Black further discloses that each of said plurality of commercial enterprises is capable of periodically providing said server with information relating thereto [e.g., col. 7, lines 4-15].

Claim 14:

In addition to the limitations recited in claim 3, Black further discloses that said selection criteria is relevancy of each of said plurality of commercial enterprises to said search request [e.g., col. 5, lines 47 – col. 6, lines 22].

Claim 15:

In addition to the limitations recited in claim 3, Black further discloses that said level of visibility is a function of a graphical display size, color of each of said plurality of commercial enterprises [e.g., col. 8, lines 1-40].

Claim 16:



In addition to the limitations recited in claim 3, Black further discloses that said server is capable of enabling bidirectional communication between said user client and each of said plurality of commercial enterprises [e.g., the use of Internet protocols at Abstract, lines 1-5].

Claim 17:

In addition to the limitations recited in claim 3, Black further discloses that at least one selection criteria provided by said server is a subscription fee paid by each of said plurality of commercial enterprises [e.g., col. 7, lines 4-15].

Claim 18:

In addition to the limitations recited in claim 10, Black further discloses that said commercial enterprise-related information is updated dynamically by said server [e.g., col. 1, lines 54-65].

Claim 19:

Black discloses a system for presenting results of a search query pertaining to commercial enterprises [e.g., Abstract], the system comprising a server executing a software application being designed for:

(a) receiving from a user client networked to said server a search request [e.g., the receiving of users Web page search requests as shown by Fig.(s) 2-4]; and

(b) providing said user client with an image displaying a plurality of commercial enterprises matching said search request [e.g., Fig. (s) 2-9 and associated texts], wherein a level of visibility of each commercial enterprise of said plurality of commercial enterprises in said image is determined according to at least one selection criteria provided by a user of said user client or by said server [e.g., col. 3, lines 1 – col. 4, lines 54].

Claim 20:

In addition to the limitations recited in claim 19, Black further discloses that said at least one selection criteria provided by said user is geographical location [e.g., col. 3, lines 24-41].

Claim 21:

In addition to the limitations recited in claim 19, this claim recites similar subject matters as claim 15, hence are rejected along the same rational.

Claim 22:

In addition to the limitations recited in claim 19, Black further discloses that each of said plurality of commercial enterprises matching said search request is positioned in said image according to its respective location on a map [e.g., col. 3, lines 24-41].

Claim 23:

In addition to the limitations recited in claim 19, this claim recites similar subject matters as claim 9, hence are rejected along the same rational.

Claim 25:

In addition to the limitations recited in claim 3, Black further discloses that said plurality of commercial enterprises include advertised content [e.g., col. 2, lines 28-44, col. 7, lines 39-48].

Claim 26:

In addition to the limitations recited in claim 3, this claim recites similar subject matters as claim 15, hence are rejected along the same rational.

Claim 28:

In addition to the limitations recited in claim 19, this claim recites similar subject matters as claim 15, hence are rejected along the same rational.

Claim 30:

Black discloses a computerized geographic-mapping method [e.g., Abstract], comprising:

a) receiving search results of a search for at least one category of commercial enterprises [e.g., the receiving of users Web page search requests as shown by Fig.(s) 2-4]; and

b) in response thereto, automatically transmitting to a remote client machine indicia of locations of commercial enterprises belonging to at least one specified category, which indicia, when applied to a display device at the remote client machine, are capable of displaying graphical indicators of said commercial enterprises superimposed on a geographical map, the locations of said transmitted commercial enterprises being within the geographic area defined by said geographical map [e.g., col. 3, lines 1 – col. 4, lines 54].

Claim 31:

In addition to the limitations recited in claim 30, this claim recites similar subject matters as claim 22, hence are rejected along the same rational.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 12, 27 and 29, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,735,585 issued to Black, in view of U.S. Patent No. 6,480,885 issued to Olivier.

Claim 8:

In addition to the limitations recited in claim 3, Black does not expressly details that the user-specific profile is generated by said server according to information provided from said user client.

However, Olivier discloses that said user-specific profile is generated by said server according to information provided from said user client [e.g., Abstract, col. 3, lines 7-16, Fig. 2 and associated texts].

Black and Olivier are in the analogous art to facilitate the searching of commercial enterprises data based on user's profile via a geographical mapping over networked protocols [e.g., Black: Fig. (s) 2-9 and associated texts; Olivier: Fig(s). 1-2 and associated texts], thus, with the teachings of Black and Olivier in front of him/her, it would have been obvious for an ordinary skilled person in the art at the time the invention was made to explicitly recites the details of the well known profile generation technique as shown by Olivier, because by doing so, the combined invention will provide user-specific profile that is generated by said server according to information provided from the user, such that the combined system could use the criteria setup in the user's profile to perform a customized network search.

Claim 12:

In addition to the limitations recited in claim 3, Black does not expressly disclose that said server is also capable of managing an affiliation of said user to consumer clubs associated with at least one commercial enterprise of said plurality of commercial enterprises.

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However, Olivier discloses that said server is also capable of managing an affiliation of said user to consumer clubs associated with at least one commercial enterprise of said plurality of commercial enterprises [e.g., col. 24, lines 66-col. 25, lines 20, col. 25, lines 55 – col. 26, lines 20].

As cited above, Black and Olivier are in the analogous art to facilitate the searching of commercial enterprises data based on user's profile via a geographical mapping over networked protocols [e.g., Black: Fig. (s) 2-9 and associated texts; Olivier: Fig(s). 1-2 and associated texts], thus, with the teachings of Black and Olivier in front of him/her, it would have been obvious for an ordinary skilled person in the art at the time the invention was made to explicitly disclose the details of managing an affiliation of a user to consumer clubs which associated with at least one commercial enterprise as shown by Olivier, because by doing so, the combined invention will be upgraded to provide online clubs communication over network such that the user of the combined system is allowed to rendezvous with other users to facilitate the determination of personalized subsets within the clubs.

Claim 27:

In addition to the limitations recited in claim 3, Black does not expressly disclose that said level of visibility is a function of an animation of each of said plurality of commercial enterprises.

However, Olivier discloses the claimed limitations [e.g., col. 23, lines 26-56].

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As cited above, Black and Olivier are in the analogous art to facilitate the searching of commercial enterprises data based on user's profile via a geographical mapping over networked protocols [e.g., Black: Fig. (s) 2-9 and associated texts; Olivier: Fig(s). 1-2 and associated texts], thus, with the teachings of Black and Olivier in front of him/her, it would have been obvious for an ordinary skilled person in the art at the time the invention was made to explicitly disclose the well-known animation technique as shown by Olivier in Black's system, , because by doing so, the combined invention will be upgraded to provide an online animation function that dividing the users into skill levels and help users rendezvous with the best partners as they desire.

Claim 29:

In addition to the limitations recited in claim 19, this claim recites similar subject matters as claim 27, hence are rejected along the same rational.

### ***Response to Arguments***

Applicant's arguments with respect to claims 3-23 and 25-31 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

To expedite the process of re-examination, the examiner requests that all future correspondences in regard to overcoming prior art rejections or other issues (e.g. 35 U.S.C. 112) set forth by the Examiner prior to the office action, that applicant should

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provide and link to the most specific page and line numbers of the disclosure where best support is found (see 35 U.S.C. 132).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### **Points of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y. Chen whose telephone number is 571-272-4016. The examiner can normally be reached on Monday - Friday from 7:00-4:30.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mofiz Apu can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susan Y Chen  
Examiner  
Art Unit 2161



March 21, 2007